

**ASSEMBLY BILL**

**No. 523**

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**Introduced by Assembly Member Huffman**

February 25, 2009

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An act to amend Section 130060 of the Health and Safety Code, relating to health facilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 523, as introduced, Huffman. Hospitals: seismic safety.

Existing law, the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983, establishes, under the jurisdiction of the Office of Statewide Health Planning and Development, a program of seismic safety building standards for certain hospitals constructed on and after March 7, 1973. Existing law authorizes the office to assess an application fee for the review of facilities design and construction, and requires that full and complete plans be submitted to the office for review and approval.

Existing law requires that, after January 1, 2008, any general acute care hospital building that is determined to be a potential risk of collapse or pose significant loss of life be used only for nonacute care hospital purposes, except that the office may grant a 5-year extension under prescribed circumstances. Existing law also allows the office to grant an additional 2-year extension to the January 2008 deadline in specified circumstances.

This bill would also allow the office to grant the additional 2-year extension for a hospital building that is owned by a health care district that has, as owner, received the extension of the January 1, 2008, deadline, but where the hospital is operated by an unaffiliated 3rd party lessee pursuant to a facility lease that extends at least through December

31, 2009, if the health care district requests the additional extension by March 1, 2010. This bill would require the district to file a declaration stating specified information as a condition for receiving the extension. This bill would prohibit the office from granting the extension if an unaffiliated 3rd party lessee will operate the hospital beyond December 31, 2010, and would make the extension applicable only while the hospital is operated by the district or an entity affiliated with the district.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 130060 of the Health and Safety Code  
2 is amended to read:

3 130060. (a) (1) After January 1, 2008, any general acute care  
4 hospital building that is determined to be a potential risk of collapse  
5 or pose significant loss of life shall only be used for nonacute care  
6 hospital purposes. A delay in this deadline may be granted by the  
7 office upon a demonstration by the owner that compliance will  
8 result in a loss of health care capacity that may not be provided  
9 by other general acute care hospitals within a reasonable proximity.  
10 In its request for an extension of the deadline, a hospital shall state  
11 why the hospital is unable to comply with the January 1, 2008,  
12 deadline requirement.

13 (2) Prior to granting an extension of the January 1, 2008,  
14 deadline pursuant to this section, the office shall do all of the  
15 following:

16 (A) Provide public notice of a hospital's request for an extension  
17 of the deadline. The notice, at a minimum, shall be posted on the  
18 office's Internet Web site, and shall include the facility's name  
19 and identification number, the status of the request, and the  
20 beginning and ending dates of the comment period, and shall advise  
21 the public of the opportunity to submit public comments pursuant  
22 to subparagraph (C). The office shall also provide notice of all  
23 requests for the deadline extension directly to interested parties  
24 upon request of the interested parties.

25 (B) Provide copies of extension requests to interested parties  
26 within 10 working days to allow interested parties to review and

1 provide comment within the 45-day comment period. The copies  
2 shall include those records that are available to the public pursuant  
3 to the Public Records Act, Chapter 3.5 (commencing with Section  
4 6250) of Division 7 of Title 1 of the Government Code.

5 (C) Allow the public to submit written comments on the  
6 extension proposal for a period of not less than 45 days from the  
7 date of the public notice.

8 (b) (1) It is the intent of the Legislature, in enacting this  
9 subdivision, to facilitate the process of having more hospital  
10 buildings in substantial compliance with this chapter and to take  
11 nonconforming general acute care hospital inpatient buildings out  
12 of service more quickly.

13 (2) The functional contiguous grouping of hospital buildings of  
14 a general acute care hospital, each of which provides, as the  
15 primary source, one or more of the hospital's eight basic services  
16 as specified in subdivision (a) of Section 1250, may receive a  
17 five-year extension of the January 1, 2008, deadline specified in  
18 subdivision (a) of this section pursuant to this subdivision for both  
19 structural and nonstructural requirements. A functional contiguous  
20 grouping refers to buildings containing one or more basic hospital  
21 services that are either attached or connected in a way that is  
22 acceptable to the State Department of Health Services. These  
23 buildings may be either on the existing site or a new site.

24 (3) To receive the five-year extension, a single building  
25 containing all of the basic services or at least one building within  
26 the contiguous grouping of hospital buildings shall have obtained  
27 a building permit prior to 1973 and this building shall be evaluated  
28 and classified as a nonconforming, Structural Performance  
29 Category-1 (SPC-1) building. The classification shall be submitted  
30 to and accepted by the Office of Statewide Health Planning and  
31 Development. The identified hospital building shall be exempt  
32 from the requirement in subdivision (a) until January 1, 2013, if  
33 the hospital agrees that the basic service or services that were  
34 provided in that building shall be provided, on or before January  
35 1, 2013, as follows:

36 (A) Moved into an existing conforming Structural Performance  
37 Category-3 (SPC-3), Structural Performance Category-4 (SPC-4),  
38 or Structural Performance Category-5 (SPC-5) and Non-Structural  
39 Performance Category-4 (NPC-4) or Non-Structural Performance  
40 Category-5 (NPC-5) building.

1 (B) Relocated to a newly built compliant SPC-5 and NPC-4 or  
2 NPC-5 building.

3 (C) Continued in the building if the building is retrofitted to a  
4 SPC-5 and NPC-4 or NPC-5 building.

5 (4) A five-year extension is also provided to a post 1973 building  
6 if the hospital owner informs the Office of Statewide Health  
7 Planning and Development that the building is classified as a  
8 SPC-1, SPC-3, or SPC-4 and will be closed to general acute care  
9 inpatient service use by January 1, 2013. The basic services in the  
10 building shall be relocated into a SPC-5 and NPC-4 or NPC-5  
11 building by January 1, 2013.

12 (5) Any SPC-1 buildings, other than the building identified in  
13 paragraph (3) or (4), in the contiguous grouping of hospital  
14 buildings shall also be exempt from the requirement in subdivision  
15 (a) until January 1, 2013. However, on or before January 1, 2013,  
16 at a minimum, each of these buildings shall be retrofitted to a  
17 SPC-2 and NPC-3 building, or no longer be used for general acute  
18 care hospital inpatient services.

19 (c) On or before March 1, 2001, the office shall establish a  
20 schedule of interim work progress deadlines that hospitals shall  
21 be required to meet to be eligible for the extension specified in  
22 subdivision (b). To receive this extension, the hospital building or  
23 buildings shall meet the year 2002 nonstructural requirements.

24 (d) A hospital building that is eligible for an extension pursuant  
25 to this section shall meet the January 1, 2030, nonstructural and  
26 structural deadline requirements if the building is to be used for  
27 general acute care inpatient services after January 1, 2030.

28 (e) Upon compliance with subdivision (b), the hospital shall be  
29 issued a written notice of compliance by the office. The office  
30 shall send a written notice of violation to hospital owners that fail  
31 to comply with this section. The office shall make copies of these  
32 notices available on its Web site.

33 (f) (1) A hospital that has received an extension of the January  
34 1, 2008, deadline pursuant to subdivisions (a) or (b) may request  
35 an additional extension of up to two years for a hospital building  
36 that it owns or operates *and that meets the criteria specified in*  
37 *paragraph (2) or (3).*

38 (2) The office may grant the additional extension if the hospital  
39 building subject to the extension meets all of the following criteria:

1 (A) The hospital building is under construction at the time of  
2 the request for extension under this subdivision and the purpose  
3 of the construction is to meet the requirements of subdivision (a)  
4 to allow the use of the building as a general acute care hospital  
5 building after the extension deadline granted by the office pursuant  
6 to subdivision (a) or (b).

7 (B) The hospital building plans were submitted to the office  
8 and were deemed ready for review by the office at least four years  
9 prior to the applicable deadline for the building. The hospital shall  
10 indicate, upon submission of its plans, the SPC-1 building or  
11 buildings that will be retrofitted or replaced to meet the  
12 requirements of this section as a result of the project.

13 (C) The hospital received a building permit for the construction  
14 described in subparagraph (A) at least two years prior to the  
15 applicable deadline for the building.

16 (D) The hospital submitted a construction timeline at least two  
17 years prior to the applicable deadline for the building demonstrating  
18 the hospital's intent to meet the applicable deadline. The timeline  
19 shall include all of the following:

20 (i) The projected construction start date.

21 (ii) The projected construction completion date.

22 (iii) Identification of the contractor.

23 (E) The hospital is making reasonable progress toward meeting  
24 the timeline set forth in subparagraph (D), but factors beyond the  
25 hospital's control make it impossible for the hospital to meet the  
26 deadline.

27 (3) *The office may grant the additional extension if the hospital*  
28 *building subject to the extension is owned by a health care district*  
29 *that has, as owner, received the extension of the January 1, 2008,*  
30 *deadline, but where the hospital is operated by an unaffiliated*  
31 *third party lessee pursuant to a facility lease that extends at least*  
32 *through December 31, 2009, and the health care district has*  
33 *requested an extension of the deadline by March 1, 2010. The*  
34 *district shall file a declaration with the office with this request*  
35 *stating that, as of the date of the filing, the district has lacked, and*  
36 *continues to lack, unrestricted access to the subject hospital*  
37 *building for seismic planning purposes during the term of the lease,*  
38 *and that the district is under contract with the county to maintain*  
39 *hospital services when the hospital comes under district control.*  
40 *The office shall not grant the extension if an unaffiliated third*

1 *party lessee will operate the hospital beyond December 31, 2010.*  
2 *Any extension granted pursuant to this paragraph shall be*  
3 *applicable only to the health care district applicant and its*  
4 *affiliated hospital while the hospital is operated by the district or*  
5 *an entity affiliated with the district.*

6 ~~(3)~~

7 (4) A hospital denied an extension pursuant to this subdivision  
8 may appeal the denial to the Hospital Building Safety Board.

9 ~~(4)~~

10 (5) The office may revoke an extension granted pursuant to this  
11 subdivision for any hospital building where the work of  
12 construction is abandoned or suspended for a period of at least one  
13 year, unless the hospital demonstrates in a public document that  
14 the abandonment or suspension was caused by factors beyond its  
15 control.

16 SEC. 2. This act is an urgency statute necessary for the  
17 immediate preservation of the public peace, health, or safety within  
18 the meaning of Article IV of the Constitution and shall go into  
19 immediate effect. The facts constituting the necessity are:

20 Patients will be denied access to critical health care services in  
21 areas where the serving hospital is unable to meet seismic retrofit  
22 guidelines and where that hospital is unable to qualify for an  
23 extension of those guidelines. This measure allows safety-net  
24 hospitals to continue to provide vital services in their community.